

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Theodore F. Pahanish,

Case No. 3:18CV38

Plaintiff

v.

ORDER

Commissioner of Social Security,

Defendant

This is a Social Security case in which the plaintiff, Theodore Pahanish, appeals the Commissioner's decision denying him a period of disability and disability benefits.

An administrative law judge (ALJ) concluded that, while Pahanish suffered from severe impairments, he had the residual functional capacity (RFC) to perform sedentary work. (Doc. 11 at 138-141). The RFC did not, however, incorporate Pahanish's use of a cane in light of his apparently worsening condition during the period beginning June 3, 2016 going forward. (*See id.*; Doc. 13 at 10 (arguing ALJ's failure to consider Pahanish's need for a cane is not harmless error)).

Pending is Magistrate Judge Baughman's Report & Recommendation (Doc. 18). The R&R recommends that I affirm the ALJ's decision in part and reverse and remand in part for further findings respecting Pahanish's need to use a cane for the period from June 3, 2016 going forward. (*Id.* at 10).

The Magistrate Judge advised that any objections to the R&R be due within fourteen days. The Commissioner has indicated she will not object to the R&R (Doc. 19), and the

fourteen-day deadline has passed without objection from Pahanish. I therefore find that the parties have waived their right to *de novo* review. *See Thomas v. Arn*, 728 F.2d 813, 814-15 (6th Cir. 1984).

It is, therefore,

ORDERED THAT

1. The Magistrate Judge's Report and Recommendation (Doc. 18) be, and the same hereby is, adopted as the order of this court; and
2. The Commissioner's decision be, and the same hereby is, affirmed in part and reversed in part. On remand, the ALJ must reconsider whether Pahanish's use of a cane for period from June 3, 2016, forward should be incorporated into the RFC.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge